(61)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

WRIT PETITION NO. 2443 of 2006

PETITIONERS:

1. Deonarayan Rathore, aged about 36 years, son of Late Hathi Ram Rathore, occupation – Advocacy, Tah. Kharsia, Distt. Raigarh (C.G.)

2. Rajesh Kumar Sahis, aged about 33 years, son of Shri Budlu Ram Sahis, Member of Mohalla Vikas Samiti, Harizan Ward No. 4, Nagar Palika Kharsia, Distt. Raigarh (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through – Secretary, Department of Urban Development, Dau Kalyan Singh Bhawan, Raipur (C.G.)

2. State of Chhattisgarh, through – Secretary, Department of Revenue, D.K.S. Bhawan, Raipur (C.G.)

3. Collector, District Raigarh (C.G.)

4. Superintendent of Police, Distt. Raigarh (Chhattisgarh)

5. Sub Divisional Officer (Rev.) / Nazul Officer, Nazul Town, Kharsia, Distt. Raigarh (C.G.)

6. Chief Municipal Officer, Municipal Council, Kharsia, Distt. Raigarh (C.G.)

Present: Shri A.N. Bhakta, learned counsel for the petitioners.

ORAL ORDER
(Passed on 9th May, 2006)

The following oral order of the Court was passed by

S.R. NAYAK, CJ .

It is the case of the petitioners that by virtue of the lease granted in the year 1998 for a period of 30 years, they have been in actual possession and enjoyment of the subject land, all these years uninterruptedly. When the matter stood thus, according to the petitioners, the officers of the Municipal Council, the 6th respondent herein, have been highhandedly interfering with the petitioners' possession and there is a threat to demolish the construction made by the petitioners in the subject land. If the version of the petitioners is correct, in our considered opinion, it is a fit case for the petitioners' to workout their legal remedies by way of private law review for declaration, injunction, damage as the case may be to suit their grievance. This Court cannot be converted into a Civil Court / trial Court to grant injunction. The remedy available for the petitioners before the jurisdictional Civil Court is more comprehensive and effective rather than the remedy that may be granted by this Court under Article 226 of the Constitution. In that view of the matter, we decline to entertain the writ petition. It is accordingly dismissed, however, reserving liberty to the petitioners to workout their legal remedies before the jurisdictional Civil Court. All the contentions raised in this writ petition are left open to be agitated before the jurisdictional Civil Court. No costs.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge